



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue  
Seattle, WA 98101

June 28, 2006

Reply to  
Attn Of: OWW-135

Dave Peeler, Program Manager  
Water Quality Program  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, Washington

Dear Mr. Peeler:

The purpose of this letter is to clarify some discrepancies found in our March 2006 partial disapproval of Washington's 2003 Water Quality Standards revisions, and to disapprove several stream segments that EPA inadvertently omitted in its March 2006 partial disapproval letter. These issues are discussed in more detail below.

Ecology, WDFW, USFWS, and several northwest tribes participated in a quality review of the EPA GIS maps and the accompanying appendices found in EPA's March's 2006 disapproval letter. This process resulted in identifying some discrepancies between the GIS maps, which reflects EPA's disapproval of stream segments, and the appendices/tables, which provides the supporting information for the GIS maps. EPA's clarifications of the discrepancies, and its revised GIS maps are provided in the attached enclosures.

The Upper Skagit Tribe recently informed EPA that its March 2006 partial disapproval letter overlooked the fish distribution data that the Tribe provided for several streams in WRIA 3. After reviewing the Tribe's data, EPA has determined that these streams have incorrect aquatic life use designations. Therefore, pursuant to section 303(c) of the Clean Water Act and its implementing regulations at 40 CFR 131.5 and 131.21, EPA is disapproving Washington's designation of "Salmon and trout spawning, non-core rearing, and migration" use and the associated 17.5°C temperature criterion for Fisher Creek and its tributaries; Carpenter Creek and its tributaries; Nookachamps Creek (from the Skagit River to its confluence with Barney Lake); East Fork of the Nookachamps (from Barney Lake to Turner Creek); and Turner Creek. The record demonstrates that these waters should be designated as "Salmon and trout spawning, core rearing, and migration" use and have an associated 16°C temperature criterion. This

disapproval action is discussed in more detail in the attached enclosure. Also enclosed are revised GIS maps.

If you have any questions on this matter, please contact John Palmer at 206-553-6521 or Kathleen Collins at 206-553-2108.

Sincerely,

Mike Gearheard, Director  
Office of Water and Watersheds

Enclosures

cc: Steve Landino, NOAA  
Ken Berg, USFWS  
Dick OConner, WDFW  
Jon-Paul Shannahan, Upper Skagit Tribe  
Fran Wilshusen, NWIFC

## **ENCLOSURE**

Part I of this enclosure provides EPA's clarification of the discrepancies identified in the March 2006 partial disapproval letter. Part II of this enclosure provides a discussion of EPA's disapproval action in WRIA 3.

### **I. Clarifications**

#### **WRIA 1 – California Creek.**

Discrepancy: EPA's GIS map indicates that this creek should be designated as "Salmon and trout spawning, non-core rearing and migration" (hereafter referred to as "non-core") however, Appendix C indicates this creek should be designated as "Salmon and trout spawning, core rearing and migration" (hereafter referred to as "core").

Response: Appendix C contains a note stating that a personal communication from the Nooksack Tribe indicates that steelhead spawning occurs in California Creek (summer steelhead spawning/incubation is a factor EPA used to determine if a stream should be designated as "core"). However, at this time, data does not exist to substantiate the spawning use. Additionally, the WDFW Databases (i.e., the primary sources of information used by EPA for determining fish distributions) do not show summer spawning/incubation California Creek. Because there is no documented summer spawning/incubation, EPA did not disapprove the Ecology's "non-core" use and associated criteria for this stream. Therefore, this stream should be designated as "non-core" on the GIS map.

#### **WRIA 3 – Nookachamps Creek.**

Discrepancy: EPA's GIS map did not correctly reflect that Ecology designated Nookachamps Creek from Barney Lake to Big Lake as "core" in its 2003 Water Quality Standards.

Response: In the process of evaluating the Upper Skagit Tribe's data for Nookachamps Creek, EPA discovered that it had made an error on its GIS map. The GIS map depicted Nookachamps Creek from Barney Lake to Big Lake as "WAC non-core" when, in fact, Ecology's regulations designate streams flowing into lakes "core" use. EPA has revised its GIS map to correct this error.

#### **WRIA 13 – Perceval Creek.**

Discrepancy: EPA's GIS map indicates that Percival Creek should be designated as "non-core," however, Appendix C indicates that this creek should be designated as "core."

Response: Appendix C shows Chinook spawning/incubation occurs after mid-September. EPA's March 2006 letter states that streams where spawning/incubation occurs prior to mid-September should be designated as "core." Since Percival Creek does not meet this requirement (or any of the other factors listed in EPA's March 2006 letter which would indicate the need for a "core" designation) EPA did not disapprove the Ecology's "non-

core” use and associated criteria for this stream. The EPA finding for Percival Creek contained in Appendix C was in error.

**WRIA 14 – Uncle Johns Creek.**

Discrepancy: EPA’s GIS map does not depict Uncle Johns Creek at all, however, Appendix C indicates that Uncle Johns Creek should be designated as “core.”

Response: EPA’s GIS map is error. The map scale used by EPA when developing the GIS map was not detailed enough to depict Uncle Johns Creek. For the reasons indicated in Appendix C, EPA disapproved Ecology’s “non-core” use and associated criteria for this stream. EPA has revised its’ GIS map to include Uncle Johns Creek (see attached revised map).

**WRIA 21 – Upper portion of Salmon River, Middle Fork.**

Discrepancy: EPA’s GIS map did not correctly reflect that Ecology designated this river as “char” in its 2003 Water Quality Standards regulation.

Response: EPA has corrected its’ GIS map to correctly reflect Ecology’s “char” use designation (see attached revised map).

**WRIA 29 – Rock, Carson, Jewett Creek, Catherine Creek, and Major Creek.**

Discrepancy: EPA’s GIS map indicates that these creeks should be designated as “core,” however, Appendix C indicates they should be designated as “non-core.”

Response: Appendix C is incorrect because the WDFW Databases show that summer steelhead spawning/incubation occurs in these creeks. While this information was captured in the GIS map it was inadvertently left out of Appendix C. EPA’s GIS map is correct, EPA disapproved the “non-core” use designation for these streams. These streams should be designated as “core” use.

**WRIA 31 – Harrison Creek.**

Discrepancy: EPA’s GIS map indicates that this creek should be designated as “non-core,” however, Appendix C indicates it should be designated as “core.”

Response: EPA’s GIS map is correct. EPA did not disapprove Ecology’s “non-core” use and associated criteria for this stream because spawning/incubation in Harrison Creek occurs below the elevation threshold where spawning is likely to occur in the summer (see appendix D of the March 2006 letter for additional information). EPA’s finding in Appendix C is in error in its reference to upper Harrison Creek as “core” use.

**WRIA 31 – Lower Squaw Creek.**

Discrepancy: EPA’s GIS map indicates that a short segment of lower Squaw Creek should be designated as “core,” however, Appendix C indicates only upper Squaw Creek should be designated as “core.”

Response: EPA's GIS map is in error by depicting the lower segment of Squaw Creek as "core" use. As stated in Appendix C, EPA's finding for "core" applied only to upper Squaw Creek. Lower Squaw Creek is not likely to have summer spawning/incubation because spawning occurs below the elevation threshold where spawning is likely to occur in the summer (see Appendix D of the March 2006 letter for additional information). EPA did not intend to disapprove Ecology's "non-core" use for this segment, and has corrected the GIS map (see attached map).

#### **WRIA 37 – Sulfur Creek.**

Discrepancy: EPA's GIS map identifies this creek as "non-core" but Appendix A does not provide any information indicating this creek should be changed from Ecology's "salmon and trout rearing and migration only" designation.

Response: EPA's GIS map should have reflected Ecology designation of "rearing and migration only" use. EPA has corrected the GIS map (see attached map).

#### **WRIA 38 – Tieton River, South Fork.**

Comment: EPA's GIS map indicates that South Fork Tieton River, from Rimrock Lake to just below the first tributary of the South Fork Tieton River should be designated as "core." However, Appendix D indicates that the entire South Fork Tieton River should be "char."

Response: Appendix D is correct, EPA disapproved the Ecology "core use" designation to the confluence with Rimrock Lake. EPA's GIS map mistakenly did not show "char" use for South Fork Tieton River down to the confluence with Rimrock Lake. EPA has corrected the GIS map (see attached map).

#### **WRIA 39 – Camp Creek, Salmon La Sac Creek, and Little Boulder Creek.**

Comment: EPA's GIS map did not depict these three creeks as "char," however all the streams in this area are designated for char use. It is unclear why these three creeks are designated as "core."

Response: EPA's GIS map mistakenly did not depict these 3 creeks as "char." EPA disapproved Ecology's "core use" for these three creeks. EPA has corrected the GIS map (see attached map).

#### **WRIA 48 – Lake Creek**

Comment: EPA's GIS map depicts all of Lake Creek as "char" but Appendix E doesn't have a discussion of Lake Creek.

Response: EPA's GIS map is correct, the discussion regarding Lake Creek is contained in the Chewuch River discussion (this discussion references extensive char use in Lake Creek).

## **II. Disapproval Action**

In our March 2006 partial disapproval of Washington's 2003 Water Quality Standards revisions, EPA disapproved Ecology's "non-core" use designation for the lower Skagit River and determined it should be "core" use. For this river segment, EPA made an exception to its general determination that tributaries to "core" streams should be designated "core" (see March 2006 letter), unless the tributary had fish information that supported a "core designation." The Upper Skagit Tribe provided EPA with fish distribution data which EPA overlooked in its March 2006 partial disapproval letter regarding several tributaries to the lower Skagit River. The data shows that there is extensive coho rearing in these streams and summer steelhead spawning. This data shows that these streams should be designated as "core."

As stated in EPA's March 2006 letter, EPA primarily relied on the Washington Department of Fish and Wildlife (WDFW) Databases to make its disapproval decisions, however, where appropriate, other available information was considered. The data provided by the Tribe shows there is high density summer rearing of coho throughout the Nookachamps drainage. Furthermore, WDFW Database shows that there is summer steelhead spawning for portions of the Nookachamps. As stated in EPA's March 2006 letter, these are factors that are used to apply a "core" use designation to a stream (see pages 4-5 of the March 2006 letter). Therefore, EPA is disapproving Washington's designation of "salmon and trout spawning and non-core rearing" use and the associated 17.5°C temperature criterion for the Nookachamps Creek (from the Skagit River to its confluence with Barney Lake); East Fork of the Nookachamps (from Barney Lake to Turner Creek); and Turner Creek (a tributary of East Fork Nookachamps Creek). For clarity, it should be noted that in its March 2006 partial disapproval letter EPA disapproved the East Fork of the Nookachamps from the confluence of Turner Creek to its confluence with Washington's char designation. The record demonstrates that these waters should be designated as "Salmon and trout spawning, core rearing, and migration" use and have an associated 16°C temperature criterion (see EPA's revised GIS map).

The Tribe also provided EPA with information showing that high density summer rearing of coho occurs throughout the Fisher and Carpenter Creek drainages. As stated above, high density salmonid rearing is a factor EPA used to apply a "core" use designations to streams. Therefore, EPA is disapproving Washington's designation of "salmon and trout spawning and non-core rearing" use and the associated 17.5°C temperature criterion for Fisher Creek and its tributaries, and for Carpenter Creek and its tributaries. The record demonstrates that these waters should be designated as "Salmon and trout spawning, core rearing, and migration" use and have an associated 16°C temperature criterion (see EPA's revised GIS map).